

MAINE STATE LEGISLATURE

The following document is provided by the
LAW AND LEGISLATIVE DIGITAL LIBRARY
at the Maine State Law and Legislative Reference Library
<http://legislature.maine.gov/lawlib>



Reproduced from scanned originals with text recognition applied
(searchable text may contain some errors and/or omissions)

STATE OF MAINE

REPORT

OF THE

ATTORNEY-GENERAL

FOR THE TWO YEARS ENDING

NOVEMBER 30, 1918

MERRILL & WEBBER CO., AUBURN, MAINE

PRINTERS AND BOOKBINDERS

tering the same, and if known, the name and residence of the operator or owner. Upon receipt of such complaint the secretary of state shall forthwith investigate the case and shall have authority to suspend the license of such operator and also to annul the registration of the vehicle so operated, for such time as he shall deem advisable."

A careful reading of this section, and the previous section of the same chapter, dealing with the different phases of the same subject, shows that the legislature of the State of Maine did not limit the authority of the secretary of state to revoking the license of a person operating an automobile while under the influence of intoxicating liquor, to such acts occurring within the borders of the State of Maine.

The provisions of the law are general, and not limited. A person licensed to operate an automobile in Maine, operates that automobile in other states by virtue of the authority conferred upon him by this state. The license to operate is given upon the condition that he shall not operate an automobile while under the influence of intoxicating liquor, and, it is our opinion that this condition extends as far as the license extends, and that when the condition is violated, the secretary of state of Maine has full authority to act.

Accordingly, we advise you that if a citizen of this State, operates an automobile while under the influence of intoxicating liquor, his license may be revoked, whether the act of operating while under the influence of intoxicating liquor, occurs within or without the borders of the State.

Very truly yours,

FRANKLIN FISHER,

Assistant Attorney General.

SAVINGS BANKS—RIGHT TO INVEST IN ELECTRIC RAILROAD SECURITIES.

Portland, Maine, 21st May, 1917.

Hon. Irving E. Vernon, Bank Commissioner, Portland, Maine.

MY DEAR MR. VERNON: In reply to your request for construction of Chapter 147 of the Public Laws of 1917, will say that in my opinion savings banks and institutions for savings are restricted to and hereafter may invest their deposits in the bonds of electric railroads constructed in this State of Maine, subject to the provisions of Clause 1 of Paragraph F of said Act.

They may also invest in first mortgage bonds in any electric railroad which is located wholly or partly in the States named in Clause 2 of Paragraph F, provided a certificate of the *Bank Commissioner of this State* be filed in the office of the Secretary of *this State* showing

1. An amount of capital stock equal to thirty-three and one-third per cent. of the mortgage debt has been paid in, in cash, and expended upon the road in addition to the amount of the bonded debt, or

2. In lieu thereof, that satisfactory proof has been presented to the Bank Commissioner of the State of Maine that annual dividends in amount equal to five per centum per annum, on an amount of capital stock equal to one-third of the bonded debt, has been earned and paid for a period of five years next prior thereto.

And in addition thereto that the average net income of said corporation, for a period of three years next prior, making such bonds legal, shall have been not less than one and one-half times interest charges on the bonds outstanding, secured by such mortgage and all prior liens.

In my opinion, the reference in Clause 2 of Paragraph F, in the language "in addition to the provisions specified in the first clause in this paragraph", refers only to the provisions that thirty-three and one-third per cent. of the mortgage debt shall have been paid in, in cash, and expended upon the road, etc., or the alternative provision that in lieu thereof, satisfactory proof has been presented to the Bank Commissioner that annual dividends of five per cent. on capital stock to the amount of one-third of the bonded debt has been earned and paid for a period of five years next prior thereto. It does not include in its reference the provision in Clause 1 that the payment and expenditure of thirty-three and one-third per cent. of the mortgage debt, etc., may be "evidenced by a certificate of the *Public Utilities Commission* or of the *Bank Commissioner* of this State."

It is the intention of the Legislature, as expressed in this amendment, that the Bank Commissioner of the State of Maine shall investigate and determine that the electric railroads of the States named in Clause 2, offering first mortgage bonds as a legal investment for our savings banks, have made the necessary ex-

penditures beyond their mortgage debt upon the road, or have earned dividends as provided in Clause 1, and have also earned a net income as required by Clause 2.

Chapter 147 of the Public Laws of 1917 is an amendment to Paragraph F of Subdivision Third of Section 27 of Chapter 52. The form of the amendment being that all of said Paragraph F is struck out and Chapter 147 is inserted in place thereof. This amendment divides Paragraph F into two clauses. In the original Act the legality of investment of savings banks in bonds of street railroads constructed in the State of Maine, and in first mortgage bonds of completed street railroads in certain other States, was covered by the one paragraph. In the amendment the legality to invest in bonds of electric railroads constructed in the State of Maine is covered and provided for in Clause 1, and then by a distinct and separate clause, being numbered 2, the legality to invest in first mortgage bonds of completed electric railroads in certain States other than the State of Maine is permitted, subject to certain provisions and restrictions. It was clearly the intent of the Legislature to deal with bonds of electric railroads in States other than Maine in a different manner than it did with the State of Maine electric road bonds.

The Public Utilities Commission of the State of Maine may certify that an amount of capital stock equal to thirty-three and one-third per cent. of the mortgage debt of an electric railroad constructed in the State of Maine, the bonds of which are offered for investment, has been paid in, in cash and expended upon the road in addition to the amount of the bonded debt, and such a certificate being filed in the office of the Secretary of the State of Maine makes such a bond a legal investment for savings banks, etc. This is the extent of the authority and power of the Public Utilities Commission of the State of Maine in the matter of legality for investment by savings banks of electric railroad bonds, so far as this amendment is concerned. A like certificate from the Bank Commissioner of Maine is also sufficient, of course.

The "provisions specified in the first clause" do not require or authorize the certificate of the Public Utilities Commission of Maine in the matters of bonds of States other than Maine, and neither by a broad construction of the language itself nor by implication can this reference be deemed to require or authorize

the certificate of a Public Utilities Commission of any other State than Maine as sufficient evidence of the compliance with the requirements of our banking laws. There is no more reason why an electric railroad bond of another State should be accepted as legal upon the certificate of the Public Utilities Commission of the State wherein it is located than there is why the bond should be deemed legal upon the certificate of the Bank Commissioner of such other State.

This amendment provides, in the latter part of Clause 2, that the *Bank Commissioner of this State*, that is, the State of Maine, shall investigate upon application, shall charge for such investigation, and the amounts collected therefor shall be added to the appropriation for the *banking department*. This provision clearly indicates that the legality of investment in electric railroad bonds of the States named in this amendment is to be determined by the *Banking Commissioner of the State of Maine*, and I must advise that such bonds are not legal investments for savings banks, etc., unless a certificate of the *Bank Commissioner of Maine* is filed with the Secretary of State, certifying that either thirty-three and one-third per cent. of the mortgage debt of the road shall have been paid in, in cash and expended, etc., or as an alternative that annual dividends of five per cent. of capital stock to the amount of one-third of the bonded debt has been earned and paid for a period of five years next prior to the date of the certificate, and in addition to one of the foregoing alternatives that the average net income, for a period of three years next prior to the making of such bonds legal, shall have been not less than one and one-half times interest charges, etc.

Yours very truly,

GUY H. STURGIS,

Attorney General.

MAINTENANCE OF STATE AND STATE AID HIGHWAYS—DUTIES OF STATE HIGHWAY COMMISSION.

Portland, Maine, 11th June, 1917.

Mr. Paul D. Sargent, Chief Engineer, State Highway Commission, Augusta, Maine.

DEAR SIR: In your letter of June 2d, referring to Chapter